

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA



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Order Instituting Rulemaking on the Commission's Own Motion to Conduct a Comprehensive Examination of Investor Owned Electric Utilities' Residential Rate Structures, the Transition to Time Varying and Dynamic Rates, and Other Statutory Obligations.

Rulemaking 12-06-013
(Filed June 21, 2012)

**REPLY BRIEF
OF THE OFFICE OF RATEPAYER ADVOCATES
ON PUBLIC UTILITIES CODE SECTION 745 ISSUES**

Pursuant to the October 15, 2015 "Assigned Commissioner and Administrative Law Judge's Scoping Memo and Ruling for Phase Three" ("Phase Three ACR"), the Office of Ratepayer Advocates ("ORA") hereby submits its reply brief on Public Utilities Code ("P.U.") Section 745 requirements and definitions.

I. INTRODUCTION

Opening Briefs were submitted by The Utility Reform Network ("TURN"), ORA, the Investor Owned Utilities ("IOU's")¹, Utility Consumers' Action Network ("UCAN"), Center for Accessible Technology ("CforAT"), and Consumer Federation of California. The central question regarding the opening briefs is whether or not the Commission needs to issue a formal ruling defining the terms for P.U.Code Section 745 at this time.

There is no need to make a final determination on the definition of the terms from the P.U. Code 745 requirements now; it would be better to continue to work expeditiously on the opt-in TOU pilots and continue to gather information that might be

¹ Southern California Edison Company, Pacific Gas and Electric Company, and San Diego Gas and Electric Company ("the IOUs") jointly filed their Opening Brief.

useful in making final definitions on these issues at a later date. Parties did discuss the terms “seniors”, “economically vulnerable”, and “hardship” and provided dictionary definitions and additional policy discussions, but did not make specific recommendations for terms such as “economically vulnerable” and “hardship”. The opening briefs raised additional policy issues such as implementation and practicality issues connected with some of the potential definitions of these terms. For all these reasons, ORA recommends that the Commission hold off from reaching final definitions of these terms and instead proceed with the pilots and see what can be learned from them. The IOUs Joint Opening Brief states a similar recommendation: “Thus, the commission should not issue a final comprehensive decision as to Section 745 definitions at this time, but should do so only after it has the benefit of pilot results. The Commission should proceed instead at this time only to issue its Resolution adopting the opt-in TOU pilot designs that were developed through the TOU Working Group process.”²

ORA also makes this recommendation based on its understanding that the ACR was released at a time when the Working Group had not reached consensus on some of these issues and that the lack of consensus would impede progress on the TOU Pilots. Soon after the ACR was issued, the Working Group did reach consensus on issues in a way that would allow the Working Group to proceed with the pilots. Consensus was also reached that the pilots and the surveys from the pilots would provide additional information that would likely help the Commission set policy on these issues.

II. DISCUSSION

As stated above, ORA and the IOUs conclude that there is no need to make the final determination on the definition of the undefined terms from P.U. Code 745 at this time. On the important issue of “unreasonable hardship”, TURN states a similar position: “However, it is not necessary for the Commission to establish any cutoff criteria defining “unreasonable hardship” at this time for purposes of designing the TOU pilot. So long as the sample populations for the pilot tariffs and / or the pilot surveys include sufficient

² IOU’s OB, p. 7.

numbers from target groups to provide valid results, the Commission should determine whether there are indications of unreasonable hardship by considering all the data concerning the factors enumerated above at the end of the pilot. TURN suggests that the Commission seek additional input on this issue after publishing the detailed results of the TOU pilots.”³

Parties had different ideas on how to define hardship, but most state that ultimately it should be based on some combination of bill impacts, energy burden, concerns about avoiding disconnections, and behavioral changes made in response to higher on peak period prices. It is hoped that the customer surveys being administered as part of the pilot process will provide useful information on this issue.

On the issue of senior citizens, the pilots proposed by Nexant will provide sufficient information to examine the impact on seniors based on the definitions as “seniors who are head of a household” and “households where a senior resides”. It is premature to know if there will be significant differences in behavior from these differing groups, and it would thus be better to wait for the results of the pilot and see what can be learned.

Similarly on the issue of economically vulnerable customers, the pilot sample will also include income information for a number of income ranges measured against the standard of the Federal Poverty Guideline. Thus customer behavior can be examined for different levels of low income customers.

The Commission should continue working on the TOU pilots and continue to gather as much information as possible on working towards default TOU rates. Based on the pilot studies, the Commission could potentially exempt additional customer groups from defaulting to TOU rates. It could decide that additional outreach towards specific customer groups was helpful if the pilot results indicate that specific customer groups would experience greater bill impacts or that customers do not understand the new rates. When considering all these options it would be important to keep in mind the expense

³ TURN OB, p. 19.

and practicality of the proposed actions/remedies. During Working Group meetings, the IOUs have stated that they do not currently track seniors and this may prove to be administratively difficult. Therefore, it may be difficult to directly target this group, but it would still be possible to provide assistance to the customers who are most impacted—the customers with greatest bill impacts from the new TOU rates. The IOUs could identify and contact these customers to provide an extra level of customer assistance.

Prior to ruling on final definitions, more can be learned from the pilot studies to better define economically vulnerable and hardship. P.U. Code Section 745 institutes additional measures that the Commission has the ability to use when it implements default residential TOU rates. As the IOUs point out:

- The impact of default TOU rates on economically vulnerable customers will be significantly within the control of those customers themselves because Section 745 requires that every customer have the ability to “opt out” of default TOU rates for whatever reason.
- The actual design of the default TOU rates, including the differential between peak and off-peak prices as compared to non-TOU rates, will significantly determine the actual bill impacts of the TOU rates even if customers do not change their usage behavior under the TOU rates.
- The IOUs will make available multiple optional TOU and tiered rates for residential customers to explore.
- Defaulted TOU customers will enjoy one year of bill protection that will make them whole regardless of the monetary impact of the new rate on household bills.
- The most vulnerable customers in the IOUs’ service territories are already statutorily exempt from TOU.⁴

With the above-mentioned measures, the Commission can properly mitigate hardships on economically vulnerable customers.

III. CONCLUSION

ORA recommends that the Commission continue to work on the TOU pilots and reach a final determination on the definition of certain terms from P.U. Code 745 after

⁴ IOU’s OB, pp. 17 to 18.

the results of the TOU pilots are examined and after considering expense and implementation issues. It may prove imprudent to craft a definition of certain terms in a vacuum that does not also consider the implementation and practicality limitations of a given definition.

Respectfully submitted,

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